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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,268	12/20/2000	Klaus Abraham-Fuchs	P00,1908	7104

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EXAMINER

FRENEL, VANEL

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/742,268	<b>Applicant(s)</b> ABRAHAM-FUCHS ET AL.	
	<b>Examiner</b> Vanel Frenel	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Notice to Applicant

1. This communication is in response to the Amendment filed on 03/16/05. Claims 1-18, 20 and 25 have been amended. Claims 1-28 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-18, 20, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hennessy et al (6,277,071) in view of Correa et al (5,882,203) and further in view of Saltzstein et al (5,941,829).

(A) Claim 1 has been amended to recite the limitations of "for acquiring information from a patient", "via an interactive procedure", "from a patient wherein the acquired information is selected", "a", "providing an expert system accessible by the computer", "providing said acquired patient information", "for processing thereby, and", "from the acquired information", "the", "suffering from a", "which is treated with medication".

Hennessy and Correa do not explicitly disclose "for acquiring information from a patient", "via an interactive procedure", "from a patient wherein the acquired information is selected", "a", "providing an expert system accessible by the computer", "providing

Art Unit: 3626

said acquired patient information", "for processing thereby, and", "from the acquired information", "the", "suffering from a", "which is treated with medication".

However, these features are known in the art, as evidenced by Saltzstein. In particular, Saltzstein suggests "for acquiring information from a patient", "via an interactive procedure", "from a patient wherein the acquired information is selected", "a", "providing an expert system accessible by the computer", "providing said acquired patient information", "for processing thereby, and", "from the acquired information", "the", "suffering from a", "which is treated with medication" (See Saltzstein, Col.8, lines 19-67 to Col.9, line 10).

It would have been obvious to one ordinary skill in the art at the time of the invention to have included the collective teachings of Hennessy and Correa with the motivation of providing the patient voice and data which are synchronized, the physician is unable to correlate the received patient data with the patient's current bodily activities, mental state and physical condition (See Saltzstein, Col.2, lines 7-11).

(B) Claim 2 has been amended to recite the limitations of: "acquiring information", quantifying at least one of neutral", "use in determining". (This limitation has shown in Saltzstein Column 8, lines 51-67 in which the Examiner interprets prescribed medications to be a form of neutral by using the stressful monitoring session).

(C) Claim 3 has been amended to recite the limitations of: "the step of acquiring information", "having", "at least one of neutral", "use in"; and "use in determining".

(This limitation has shown in Saltzstein Column 8, lines 51-67 in which the Examiner interprets prescribed medications to be a form of neutral by using the stressful monitoring session).

(D) Claim 4 has been amended to recite the limitations of: "the step of acquiring information", "having", "at least one of neutral", "use in"; and "for use in determining" (This limitation has shown in Saltzstein Column 8, lines 51-67 in which the Examiner interprets prescribed medications to be a form of neutral by using the stressful monitoring session).

(E) Claims 5 and 6 have been amended to recite the limitations of: "the step of". The amendments to claims 5 and 6 appear to have been made to include the words "the step of". While these changes render the language of the claims smoother and more consistent, they otherwise affect neither the scope nor the breadth of the claims as originally presented nor the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, the recited claimed feature is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(F) Claim 7 has been amended to recite the limitations of: "the step of", "during said step of acquiring information". The amendments to claim 7 appear to have been made to include the words: "the step of", "during said step of acquiring information". While

these changes render the language of the claims smoother and more consistent, they otherwise affect neither the scope nor the breadth of the claims as originally presented nor the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, the recited claimed features are rejected for the same reasons given in the prior Office Action, and incorporated herein.

(G) Claim 8 has been amended to recite the limitation of: "further", "the step of", "the step of acquiring", "after each interactive procedure", "acquired". The amendments to claim 8 appear to have been made to include the words: "the step of", "the step of acquiring", "after each interactive procedure", "acquired". While these changes render the language of the claims smoother and more consistent, they otherwise affect neither the scope nor the breadth of the claims as originally presented nor the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, the recited claimed features are rejected for the same reasons given in the prior Office Action, and incorporated herein.

(H) Claim 9 has been amended to recite the limitation of: "stored", "for". The amendments to claim 9 appear to have been made to include the words: "stored", "for". While these changes render the language of the claims smoother and more consistent, they otherwise affect neither the scope nor the breadth of the claims as originally presented nor the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, the recited claimed

features are rejected for the same reasons given in the prior Office Action, and incorporated herein.

(I) Claim 10 has been amended to recite the limitation of: "a chronological". The amendments to claim 10 appear to have been made to include the words: "chronological". While this change renders the language of the claims smoother and more consistent, they otherwise affect neither the scope nor the breadth of the claims as originally presented nor the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, the recited claimed features are rejected for the same reasons given in the prior Office Action, and incorporated herein.

(J) Claim 11 has been amended to recite the limitation of: "the step of", "the". The amendments to claim 11 appear to have been made to include the words: "the step of", "the". While these changes render the language of the claims smoother and more consistent, they otherwise affect neither the scope nor the breadth of the claims as originally presented nor the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, the recited claimed feature is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(K) Claim 12 has been amended to recite the limitation of: "further". The amendments to claim 11 appear to have been made to include the word: "further". While these changes render the language of the claims smoother and more consistent, they otherwise affect neither the scope nor the breadth of the claims as originally presented nor the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, the recited claimed feature is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(L) Claims 19, 21-24 and 26-28 have not been amended are therefore rejected for the same reasons given in the prior Office Action, and incorporated herein.

***Response to Arguments***

4. Applicant's arguments filed on 3/16/05 with respect to claims 1-18, 20 and 25 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not



Art Unit: 3626

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches hands-free, portable computer and system (5,844,824).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on Monday-Thursday from 6:30am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

V.F  
V.F

June 26, 2005

  
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